



re:build
Britain

Delay and Disruption

What the construction sector can do to rebuild
and get better prepared to tackle the challenges
in 2021

We've never used the words delay and disruption as much as we have in 2020, with contractors and employers having faced significant challenges in navigating project delivery and new working practices.

Despite the challenges, it's been incredible to see how well the construction sector has adapted. Improved collaboration, creative action, hard work and determination have seen projects begin to recover and productivity increase, and have put many in a better place to reset and rebuild on the path to recovery.

The pandemic has amplified concerns over Brexit and how it will impact the skills shortage, supply of materials, regulations and standards. As we continue to support businesses in the sector and help them to prepare for the year and its legal and regulatory challenges, it's clear that commercial tensions are high and that pent-up disputes are one of the biggest issues on the horizon.

But while 2021 comes with new challenges for the sector, there are practical steps that can be taken to minimise risk and better prepare for likely delay and disruption.



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Delay and disruption

What's the difference?

Construction delays are considered as being the time lag in completion of activities from their specified time for completion in a contract, or can be defined as late completion or late start of activities against the baseline schedule, directly affecting the programme (and potentially impacting on project cost).

Construction disruption is where a disturbance, hindrance or interruption to a contractor's normal working methods results in lower efficiency. Disruption claims often relate to loss of productivity in the execution of particular activities. Because of the disruption, these work activities cannot be carried out as efficiently as reasonably planned (or as possible).



Delay and disruption

Avoiding and managing disputes

With pent-up disputes waiting to be resolved, it's key to get on the front foot and assess the likely risks to your project, working with your team to understand where you may be vulnerable and making sure you have plans in place to take the right actions.

Getting on the front foot in 2021:

- Explore all of the potential risks to your business from all external factors, including labour and materials shortages, and scenario plan – how will you overcome the issues to avoid delays or to document and record potential disruption?
- Take time out to review your contracts. Whilst your existing contracts were unlikely to have included specifics around a pandemic, what's best practice going forward and which current contracts pose the biggest risks with regard to delay or disruption?
- As a developer or employer, focus on good project and contract management, particularly around notices and agreed project plans – where are your biggest risks?
- Consider taking a more collaborative approach to future/new contracts. With so much uncertainty it may be prudent to accept and share risk more evenly when drawing up contracts.



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Records, records, records

It's not just about diligently maintaining thorough records; it's about keeping the right records and how you gather and collate the information. If disruption is causing delays out of your control, it's important that you can prove it and that concerns are raised at the right time. When disputes arise, legal teams need to be able to assess how the delay to a project has occurred, the steps taken to avoid delay, the steps taken to record and report delay, and how works have progressed.



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If programmes are not regularly updated and records not sufficiently thorough then it can create further uncertainty as to whether other action or other methods, could have avoided delays.

- Parties should look to agree on the type of records to be kept, as well as the frequency of updates to those records. This agreement would simplify and assist in resolving claims.
- Collate evidence – make sure disruption and delays are documented daily as they occur, with all activity which is hindered recorded individually and contemporaneously.
- Measure impact – maintain records on how the project is/could be impacted at each stage. To do this you will need to show how the works were planned to be undertaken as against how they now need to be undertaken as well as mitigation measures considered and/or implemented. This may include changes to the scope, specification, sequencing or method of carrying out the works, increases/decreases of activities/resources (being labour, plant and/or materials), preliminaries, head office costs etc. Short simple narratives should be used to explain the effects.
- Send records to all agreed parties in real time.
- Confirm receipt and check whether the records are sufficient.

When disputes do arise, it's in everyone's interests to reach a resolution as quickly and efficiently as possible. Keeping impeccable records will reduce wasted time and keep legal costs down.



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Project Managers or Contract Administrators

Work with your team to make sure records are then analysed and include everything that's needed to avoid dispute.

- Apply relevant provisions of the construction contract.
- Make a logical and methodical analysis of the effect of any risks to the programme.
- Conduct a calculation of the relevant critical delay, rather than an impressionistic or general assessment.

Typical records might include:

- Progress meeting and general meeting reports
- Programme progress updates
- Marked up drawings
- Correspondence
- Labour allocation sheets
- Daily work area records and daily site diaries
- Quality control inspection sheets
- Handover records
- Weather and conditions records
- Progress photographs

Avoiding disputes

The biggest challenges

1. Shortage of materials

Imports

Just over 60% of materials used in UK construction projects are imported from the EU, and with congestion at UK ports already causing serious delays, concerns are running high. Covid-related import delays, new operating procedures to maintain safety, and a 30% increase in freight and storage of PPE are just some of the issues which are causing some unloading times to increase by a number of weeks. The industry is raising serious questions as to the readiness of ports and how this will practically impact the availability of materials post-Brexit, as well as their cost.

Another Brexit-related challenge is the tariff charges that may come with the import and export of materials. With margins already tight, this is likely to have a significant impact.

With particular concern over white goods for homebuilders, plumbing items, ironmongery, tools, natural stone, and more, what can you do to get your business as prepared as possible?

Practical steps

- Stay on top of the latest guidance from the Government and make any necessary changes regarding importing goods as soon as possible
- Take time to understand how the changes could impact current or future projects, in terms of cash flow, project timeframes, quality, profit margins and contracts
- Review your supplier pool and consider if you may need to source alternative or additional suppliers.



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UK supply chain

The sector has a long and fragmented low margin supply chain, and was part of the economy that was likely to be quickly and heavily impacted by the pandemic. Factory shut down during the first lockdown and stockpiling of materials created a backlog, but with recovery in mind, it's in the interests of all in the sector to help stabilise the UK supply chain as well as ensuring your projects are able to run as smoothly as possible. Responsibility falls to all to ensure the supply chains are managed and that industry competence and UK credibility is maintained.

Practical steps

- Reach out and collaborate with your supply chain to understand the viability of contract terms and the need for any renegotiations
- Gather as much data as you can to create a supplier dashboard of UK suppliers and imported materials. Continuously explore potential disruption and risk and assess how your project controls, risk management and governance processes could handle any changes to suppliers
- Think about vulnerabilities in your supply chain and how they could impact you financially and legally (cashflow, loan repayments, terms and contracts) – how would you overcome or mitigate this?
- Work with suppliers to agree fair payment terms to ensure sustainability of UK supply chain and to future proof needs

Avoiding disputes

The biggest challenges

2. Shortage of labour

ONS reports that more than 9% of the UK construction sector workforce are EU nationals, with that rising in London to account for 30% of construction workers. Skills shortages have challenged the sector for many years and have typically been plugged with skilled labour from overseas. But Brexit and the new immigration system bring new challenges to the entire recruitment process and migrant worker eligibility, and so the sector continues to call for more Government support to fulfil demand and to engage the workforce of the future in the UK.

The squeeze on margins as labour demand outweighs supply is an imminent and long-term risk and so the sector needs to collaborate to help meet the predicted demand for an additional 200,000 construction workers in 2021.

Practical steps

- Ensure your recruitment process is Brexit-ready, understanding new visa criteria and processes
- Keep up-to-date with Government guidance and factor longer recruitment lead times into project planning
- Take time out to understand the lessons learned by the sector during the pandemic. Modern methods of construction, offsite building, site productivity improvements and site restructure
- around the management team have all worked well across projects and could guide future processes
- Winter resilience – to avoid site shutdown or employee absence, follow Government guidelines and encourage consistent use of PPE, keep up-to-date with guidance and any changes and ensure the team feel safe, not just for productivity but to ensure staff retention in a competitive market place.



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Future proof with apprentices

The Chartered Institute of Building is encouraging businesses to tackle future skills gaps by taking advantage of extended Government support and employing apprentices. Not only to aid labour needs in the short-term, but to ensure the UK industry is able to remain competitive and capable long-term.

Become UK industry champions

In 2021, the sector is being urged to take responsibility to inspire the workforce of the future. To engage with schools, colleges, industry leaders and training bodies to shake up the image of the construction site and appeal to the future generation to better champion career prospects, modern methods of construction, tech roles and construction digitisation. Encouraging new groups – especially women, the younger generation and minority groups – to consider a career in construction will help to fulfil future skills needs.

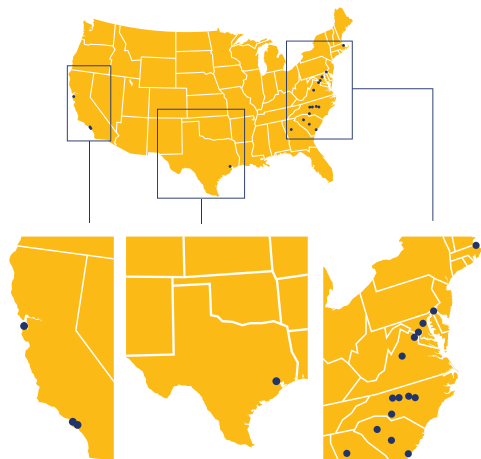
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